

REMARKS/ARGUMENTS

Claims 1, 4, 5, 10-18, 42-62, 64, and 66 remain in this application. Claims 1, 3, 4, 5, 6, 7, 10, 12, 13, 14, 42, 49, 57, 62, and 63 have been amended. Claims 63, and 65 have been cancelled. Claims 3, 6-8, and 27 have been withdrawn as a result of an earlier restriction requirement.

Support for the amendments to claims 1, 4, 5, 6, 12, 13, 14, 42, 49, 57, and 62 can be found throughout the specification and more specifically as noted herein. Support for the addition of “bacterial” to toxin (specifically, claims 1, 12, 13, and 42) can be found at least at page 8, lines 7-9. Support for “toxin-binding receptor” can be found at least at page 8, lines 3-4 (specifically, claims 1, 14, 42, and 62). Support for the change of “lateral fluidity” to “lateral redistribution” can be found at least at page 13, lines 8-11 (specifically, claims 1, 42, 57, and 62). Support for the amendment to claim 4 can be found at least at page 9, lines 7-9. Support for the amendments to claim 5 can be found at least at page 8, lines 5-7. Support for the amendments to claim 6 can be found at least at page 8, lines 1-5. Support for the amendments to claims 14 and claim 49 can be found at least in the abstract, and paragraphs 12, 36 and 37.

Drawings

Applicant acknowledges with appreciation the Examiner’s acceptance of the previously submitted formal drawings.

§ 112 Rejections

The Office Action has rejected claims 1 and 42 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Specifically, the Office Action asserts that the recitation in claims 1 and 42 of “enabling lateral fluidity” was not described in the specification. The Office Action admits however that “the disclosure discusses incubating the arrays in a humid chamber to enable possible lateral distribution of the lipid molecules”. Although Applicant does not admit that the disclosure does not disclose “enabling lateral fluidity of the lipids”, Applicant has amended the specified phrase in the claims whenever present to indicate “enabling lateral redistribution”, as indicated at page 13, lines 8-11 of the specification.

Applicant respectfully asserts that this rejection should therefore be withdrawn in light of the amendments and the comments offered herein.

The Office Action has rejected claims 62-66 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

The Office Action specifically indicated concerns regarding the order of the steps specified in claims 62 and 63. Although Applicant makes no admission regarding whether the disclosure does or does not disclose any particular order of the steps or the separation of the steps, claim 62 has been amended and claim 63 has been cancelled herein. Applicant respectfully asserts that this rejection be withdrawn in light of the amendments and the comments offered herein.

§ 102 Rejections

The Examiner has rejected claims 42-48, 53, and 54 under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No. 2002/0094544, based on U.S. Application No. 09/974,415, to Fang et al. (*Fang*).

Claim 42 has been amended herein to specify that the doped lipid comprises a bacterial toxin-binding receptor. *Fang* does not disclose the use of bacterial toxin-binding receptors. Therefore, *Fang* cannot anticipate currently amended claim 42 (and dependent claims 43-48, 53, and 54). Applicant therefore respectfully requests that this rejection be withdrawn in light of the amendments made herein.

§ 103 Rejections

The Examiner has rejected claims 1, 4-5, 10-16, 18, 49, 52, 57-58, and 60-66 under 35 U.S.C. § 103(a) as being obvious over commonly owned and assigned U.S. Publication No. 2002/0094544, based on U.S. Application No. 09/974,415, to Fang, et al., (*Fang*) in view of U.S. Patent No. 5,922,594 (*Löfås*).

Applicant reiterates the comments offered above with respect to *Fang* and notes that *Fang* does not anticipate the amended claims. Applicant further asserts that *Löfås* fails to remedy the shortcomings of *Fang* noted above. In light of this, Applicant respectfully requests that the rejection of claims 1, 4-5, 10-16, 18, 49, 52, 57-58, and

60-66 as obvious over *Fang* and *Löfås* be withdrawn in light of the amendments and comments offered herein.

Obviousness Double Patenting

Claims 42-48, 53, and 54 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 54-70 of copending U.S. Publication No. 2002/0094544 (*Fang*). The rejection is respectfully traversed.

Applicant's representative provides herewith a terminal disclaimer and the appropriate fee with respect to commonly owned and assigned U.S. Publication No. 2002/0094544, based on U.S. Application No. 09/974,415. Accordingly, the obviousness-type double patenting rejection is believed to be overcome and should be removed.


Based upon the above amendments, remarks, and papers of records, applicant believes the pending claims of the above-captioned application are in allowable form and patentable over the prior art of record. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Applicant believes that no extension of time is necessary to make this Reply timely. Should applicant be in error, applicant respectfully requests that the Office grant such time extension pursuant to 37 C.F.R. § 1.136(a) as necessary to make this Reply timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 03-3325.

Please direct any questions or comments to John L. Haack at (607) 974-3673.

Respectfully submitted,

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